APPENDIX

ORDER OF THE SUPREME COURT OF OHIO ALLOWING MOTION TO CERTIFY

No. 81-1108

THE SUPREME COURT OF THE STATE OF OHIO

THE STATE OF OHIO, CITY OF COLUMBUS

WILLIAM J. McNEA *et al.*,
Appellees,

vs.

GEORGE VOINOVICH *et al.*,
Appellants.

MOTION FOR AN ORDER DIRECTING THE COURT OF APPEALS FOR CUYAHOGA COUNTY TO CERTIFY ITS RECORD

It is ordered by the Court that this motion is allowed.

PRAECIPE OF CITY DEFENDANTS

EIGHTH DISTRICT COURT OF APPEALS—LOCAL RULE NO. 4

Trial Court Case No.: 20649

Date of Praecipe January 15, 1981

Date of Final Judgment in Trial Court January 15, 1981

Date of Filing of Notice of Appeal January 15, 1981

Date on Which Motion for New Trial or Motion for Judgment N.O.V. Was Journalized

.....

WILLIAM J. McNEA, et al.,
Plaintiffs

vs.

GEORGE VOINOVICH, et al.,
Defendants

TO THE CLERK OF THE TRIAL COURT:

Immediately prepare and assemble the original papers and exhibits filed in the trial court and a certified copy of the docket and journal entries.

The record in this appeal will include the following:

(CHECK APPROPRIATE BOXES, IF APPLICABLE)

[x] 1. Original papers and exhibits filed in the trial court and a certified copy of the docket and journal entries.

In addition the record will include:

[x] 2. Complete transcript under Rule 9(B).

[ ] 3. Partial transcript under Rule 9(B).

[ ] 4. Statement of evidence or proceedings under Rule 9(C).

[ ] 5. Agreed statement under Rule 9(D).

NOTICE:

[x] The judgment in the trial court involved multiple claims or parties.

[ ] A motion for judgment under Civil Rule 50(B) and/or motion for a new trial under Civil Rule 59 have been filed in the trial court and have not yet been journalized. (Please Check if appropriate.) Appellant *must immediately notify* the clerk of the court of appeals when the ruling on aforementioned motion is journalized, and place the date in the space provided in this praecipe.

.....

Attorney for City Defendants

NOTE: If there is an outstanding motion for a new trial or motion for judgment under Civil Rules 50 and 59, the appeal will not be docketed until the ruling on said pending motion is journalized and the clerk of the court of appeals notified.

NOTE: If a notice of appeal is prematurely filed before judgment is entered (Journalized) under Appellate Rule 4(A), or before ruling on a motion filed under Civil Rule 50 or 59, for a period greater than 90 days, the notice of appeal will be summarily docketed and then dismissed. Appellant may file a second notice of appeal within 30 days after a judgment has been entered or there has been a ruling on said motion.

Praecipe must be prepared in Triplicate—One Copy for Trial Court, One copy forwarded to Court of Appeals, with copy of Notice of Appeal attached, and a copy to the opposing party, with Notice of Appeal attached. If there is more than one party, each should be served with the Praecipe, copy of Notice of Appeal attached.

OHIO REVISED CODE

5705.39 Appropriations limited by estimated revenue

The total appropriations from each fund shall not exceed the total of the estimated revenue available for expenditure therefrom, as certified by the budget commission, or in case of appeal, by the board of tax appeals. No appropriation measure shall become effective until the county auditor files with the appropriating authority and in the case of a school district, also files with the superintendent of public instruction, a certificate that the total appropriations from each fund, taken together with all other outstanding appropriations, do not exceed such official estimate or amended official estimate. When the appropriation does not exceed such official estimate, the county auditor shall give such certificate forthwith upon receiving from the appropriating authority a certified copy of the appropriation measure, a copy of which he shall deliver to the superintendent of public instruction in the case of a school district. Appropriations shall be made from each fund only for the purposes for which such fund is established.

OHIO RULES OF APPELLATE PROCEDURE

Rule 9

THE RECORD ON APPEAL

(A) Composition of the record on appeal. The original papers and exhibits thereto filed in the trial court, the transcript of proceedings, if any, including exhibits, and a certified copy of the docket and journal entries prepared by the clerk of the trial court shall constitute the record on appeal in all cases. A videotape recording of the proceedings constitutes the transcript of proceedings other than hereinafter provided, and, for purposes of filing, need not be transcribed into written form. Proceedings recorded by means other than videotape must be transcribed into written form. When the written form is certified by the reporter in accordance with App.R. 9(B), shall constitute the transcript of proceedings. When the transcript of proceedings is in the videotape medium, counsel shall type or print those portions of such transcript necessary for the court to determine the questions presented and append such copy of the portions of the transcripts to their briefs.

In all capital cases the trial proceedings shall include a written transcript of the record made during the trial by stenographic means.

(B) The transcript of proceedings; duty of appellant to order; notice to appellee if partial transcript is ordered. At the time of filing the notice of appeal the appellant shall in writing order from the reporter a complete transcript or a transcript of such parts of the proceedings not already on file as he deems necessary for inclusion in the record and shall file a copy of said

order with the clerk. The reporter is the person appointed by the court to transcribe the proceedings for the trial court whether by stenographic, phonogramic or photographic means, or by the use of audio electronic recording devices, or by the use of video recording systems. If there be no officially appointed reporter, Rule 9(C) or 9(D) may be utilized. If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the weight of the evidence, he shall include in the record a transcript of all evidence relevant to such findings or conclusion. Unless the entire transcript is to be included, or if no transcript is necessary, or if a statement pursuant to either Rule 9(C) or 9(D) is to be prepared in lieu of a transcript, the appellant shall, with his notice of appeal, file with the clerk of the trial court and serve on the appellee a description of the parts of the transcript which he intends to include in the record or a statement that no transcript is necessary or that a statement pursuant to either Rule 9(C) or 9(D) will be submitted, and a statement of the assignments of error he intends to present on the appeal. If the appellee deems a transcript of other parts of the proceedings to be necessary he shall, within ten days after the service of the statement of the appellant, file and serve on the appellant a designation of additional parts to be included. The clerk of the trial court shall forward a copy of this designation to the clerk of the court of appeals.

If the appellant shall refuse, or fail within ten days after service upon him of appellee's designation, to order such parts, the appellee within five days thereafter, shall either order the part in writing from the reporter or apply to the court of appeals for an order requiring the appellant to do so. At the time of ordering, a party shall

arrange for the payment to the reporter of the cost of the transcript.

The reporter shall certify the transcript as correct whether in written or videotape form and state whether it is a complete or partial transcript, and, if partial, indicate the parts included and the parts excluded.

If the proceedings were recorded in part by videotape and in part by other media, the appellant shall order the respective parts from the proper reporter and the record is complete for the purposes of appeal when the last such part is filed with the clerk of the trial court.

(C) Statement of the evidence or proceedings when no report was made or when the transcript is unavailable. If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including his recollection. The statement shall be served on the appellee no later than twenty days prior to the time for transmission of the record pursuant to Rule 10, who may serve objections or propose amendments thereto within ten days after service. Thereupon, the statement and any objections or proposed amendments shall be forthwith submitted to the trial court for settlement and approval. The trial court shall act thereon prior to the time for transmission of the record pursuant to Rule 10, and, as settled and approved, the statement shall be included by the clerk of the trial court in the record on appeal.

(D) Agreed statement as the record on appeal. In lieu of the record on appeal as defined in subdivision (A) of this rule, the parties may, no later than ten days prior to the time for transmission of the record pursuant

to Rule 10, prepare and sign a statement of the case showing how the issues presented by the appeal arose and were decided in the trial court and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the issues presented. If the statement conforms to the truth, it, together with such additions as the trial court may consider necessary fully to present the issues raised by the appeal, shall be approved by the trial court prior to the time for transmission of the record pursuant to Rule 10, shall then be certified to the court of appeals as the record on appeal and transmitted thereto by the clerk of the trial court within the time provided by Rule 10.

(E) Correction or modification of the record. If any difference arises as to whether the record truly discloses what occurred in the trial court, the difference shall be submitted to and settled by that court and the record made to conform to the truth. If anything material to either party is omitted from the record by error or accident or is misstated therein, the parties by stipulation, or the trial court, either before or after the record is transmitted to the court of appeals, or the court of appeals, on proper suggestion or of its own initiative, may direct that the omission or misstatement be corrected, and if necessary that a supplemental record be certified and transmitted. All other questions as to the form and content of the record shall be presented to the court of appeals.

LOCAL RULES OF THE EIGHTH APPELLATE JUDICIAL DISTRICT

Rule 4

THE RECORD

A. The clerk of the trial court shall not prepare and assemble the documents constituting the record on appeal, as defined in Appellate Rule 9(A), unless and until appellant has filed a praecipe.

If the appellant fails to file a praecipe within 10 days of filing the notice of appeal in the trial court, it will be grounds for dismissal of the appeal. A copy shall be served on the opposing party or parties.

The appellant shall file with the notice of appeal a praecipe directing the clerk of the trial court to prepare a record of the original papers and exhibits thereto, and a certified copy of the docket and journal entries as specified in Appellate Rule 9(A). In addition, the praecipe shall state whether or not the portion of the record outlined about will be supplemented with a transcript of proceedings, other statement of the evidence or proceedings, or agreed statement all as defined in paragraphs (B), (C), and (D) of Appellate Rule 9 as the record on appeal.

If the praecipe states that the appellant will rely only on the original papers and transcript of the docket and journal entries as the record on appeal, the clerk shall transmit such record forthwith to the clerk of the Court of Appeals. If a transcript of proceedings is to be filed in accordance with Rule 9(B), the copy of the notice of appeal with the praecipe shall be filed with the clerk of the trial court with dated proof of service upon the court reporter. The appellant, however, shall be respon-

sible for contacting and ordering the transcript of proceedings from the court reporter and for the filing of such transcript of proceedings with the clerk of the trial court and its transmission to the clerk of the Court of Appeals in accordance with Appellate Rule 9(B). Appellate Rule 9(B) describes a court reporter as "the person appointed by the court to transcribe the proceedings . . . ." When a reporter is used to record the events at trial, the record must reflect that reporter's appointment by the trial court for such purpose. If an official court reporter is not then under contract to the court the Court shall appoint a professional court reporter on a case by case basis. This may be done by sua sponte entry of the court or on motion of a party in the case.

If the appellant intends to urge on appeal that the assignment of error or errors can be exemplified by the original papers with exhibits attached filed in the trial court and a certified copy of the docket and journal entries prepared by the clerk of the trial court, without a transcript of the evidence, he shall notify and serve on the appellee a description of his intentions in the same manner as required by Rule 9(B) when an appellant intends to rely on a partial transcript of the evidence to demonstrate the errors.

B. If a transcript of proceedings [Appellate Rule 9(B)] is necessary to portray the errors to be assigned on the appeal, it is the appellant's responsibility to have the transcript or a statement of the evidence or proceedings [Appellate Rule 9(C)] timely prepared and delivered to the clerk of the trial court for transmission to the clerk of the Court of Appeals. This transcript or partial transcript, or statement of the evidence together with the original papers and attached exhibits, if any, filed in the trial court and a certified copy of the docket and journal

entries which, at the direction of the appellant, are assembled, prepared, and transmitted to the Court of Appeals by the clerk shall constitute the record.

C. It is also the appellant's responsibility to have prepared, settled, and approved by the trial judge, and delivered to the clerk of the trial court an agreed statement [Appellate Rule 9(D)], if such agreed statement is to be used in lieu of the record.

D. Failure of the appellant to file a praecipe, to secure the transmission of the docket and journal entries and to arrange for the transmission of the transcript of proceedings, shall be construed as a failure to prosecute the appeal and be grounds for dismissal.

The record shall be deemed to be complete for the purpose of appeal and the clerk of the trial court shall transmit the record to the clerk of this court, pursuant to Appellate Rule 10, when any of the following circumstances occur:

1. Original papers and exhibits are filed in the trial court with a certified copy of the docket and journal entries in that court. This will occur if the praecipe does not indicate that there will be a verbatim transcript of proceedings, either complete or partial, App.R. 9(B); a statement of the evidence, App. R. 9(C); or an agreed statement, App.R. 9(D); or if the appellee has not filed a designation of additional parts of the transcript to be included in the record, App.R. 9(A).

OR

2. Original papers and exhibits are filed in the trial court, with a certified copy of the docket and journal entries in that court and either a complete or partial verbatim transcript of testimony, App.R.

9(B); or a statement of the evidence and record, App. R. 9(C); or an agreed statement, App.R. 9(D).

If there will be a complete or partial verbatim transcript of proceedings, or a statement of the evidence or an agreed statement, then the record shall be deemed to be complete when any of the following circumstances occur:

(a) When the transcript of proceedings is filed with the Clerk of the trial court, App.R. 9(B); or

(b) When the appellant's praecipe designates that a part of the transcript of proceedings is to be included in the record and such designations, with counter-designations of the transcript of proceedings, if any, have been filed with the Clerk, App.R. 9(B); or

(c) When a statement of the evidence or proceedings is settled and approved by the trial court, and journalized, App.R. 9(C); or

(d) When an agreed statement is approved by the trial court and journalized, App.R. 9(D).

E. Unless appellant indicates in the praecipe [Appellate Rule 9(B)] that no part of the transcript of proceedings is to be included in the record, failure of appellant to cause to be filed either a transcript of proceedings (either complete or partial), a statement of the evidence or proceedings settled and approved by the trial court [Appellate Rule 9(C)], or an agreed statement settled and approved by the trial court [Appellate Rule 9(D)] within the time allowed or extended for transmission of the record, shall be deemed grounds for dismissal of the appeal [Appellate Rules 3(A) and 11(C)].

OHIO RULES OF APPELLATE PROCEDURE

Rule 16

BRIEFS

(A) Brief of the appellant. The brief of the appellant shall contain under appropriate headings and in the order here indicated:

(1) A table of contents, with page references, and a table of cases (alphabetically arranged), statutes and other authorities cited, with reference to the pages of the brief where they are cited.

(2) A statement of the assignments of errors presented for review.

(3) A statement of the case. The statement shall first indicate briefly the nature of the case, the course of proceedings and its disposition in the court below. There shall follow a statement of the issues presented for review and a statement of the facts relevant to the issues presented for review, with appropriate references to the record [see subdivision (D)].

(4) An argument. The argument may be preceded by a summary. The argument shall contain the contentions of the appellant with respect to the assignments of error presented, and the reasons therefor, with citations to the authorities, statutes and parts of the record relied on.

(5) A short conclusion stating the precise relief sought.

(B) Brief of the appellee. The brief of the appellee shall conform to the requirements of subdivision

(A) (1) through (A) (4), except that a statement of the case or of the facts relevant to the assignments of error need not be made unless the appellee is dissatisfied with the statement of the appellant.

(C) Reply brief. The appellant may file a brief in reply to the brief of the appellee, and if the appellee has cross-appealed, the appellee may file a brief in reply to the response of the appellant to the assignments of error presented by the cross-appeal. No further briefs may be filed except with leave of court.

(D) References in briefs to the record. References in the briefs to parts of the record shall be to the pages of the parts of the record involved; e.g., Answer p. 7, Motion for Judgment p. 2, Transcript p. 231. Intelligible abbreviations may be used. If reference is made to evidence, the admissibility of which is in controversy, reference shall be made to the pages of the transcript at which the evidence was identified, offered, and received or rejected.

(E) Reproduction of statutes, rules, regulations. If determination of the assignments of error presented requires the consideration of provisions of constitutions, statutes, ordinances, rules or regulations, the relevant parts thereof shall be reproduced in the brief or in an addendum at the end, or may be supplied to the court in pamphlet form.

OHIO CONSTITUTION, ARTICLE IV, § 2

§2 The supreme court.

(A) The supreme court shall, until otherwise provided by law, consist of seven judges, who shall be known as the chief justice and justices. In case of the absence or disability of the chief justice, the judge having the period of longest total service upon the court shall be the acting chief justice. If any member of the court shall be unable, by reason of illness, disability or disqualification, to hear, consider and decide a cause or causes, the chief justice or the acting chief justice may direct any judge of any court of appeals to sit with the judges of the supreme court in the place and stead of the absent judge. A majority of the supreme court shall be necessary to constitute a quorum or to render a judgment.

(B)(1) The supreme court shall have original jurisdiction in the following:

(a) Quo warranto;

(b) Mandamus;

(c) Habeas corpus;

(d) Prohibition;

(e) Procedendo;

(f) In any cause on review as may be necessary to its complete determination;

(g) Admission to the practice of law, the discipline of persons so admitted, and all other matters relating to the practice of law.

(2) The supreme court shall have appellate jurisdiction as follows:

(a) In appeals from the court of appeals as a matter of right in the following:

(i) Cases originating in the courts of appeals;

(ii) Cases in which the death penalty has been affirmed;

(iii) Cases involving questions arising under the constitution of the United States or of this state.

(b) In appeals from the courts of appeals in cases of felony on leave first obtained.

(c) Such revisory jurisdiction of the proceedings of administrative officers or agencies as may be conferred by law;

(d) In cases of public or great general interest, the supreme court may direct any court of appeals to certify its record to the supreme court, and may review and affirm, modify, or reverse the judgment of the court of appeals;

(e) The supreme court shall review and affirm, modify, or reverse the judgment in any case certified by any court of appeals pursuant to section 3(B)(4) of this article.

(3) No law shall be passed or rule made whereby any person shall be prevented from invoking the original jurisdiction of the supreme court.

(C) The decisions in all cases in the supreme court shall be reported, together with the reasons therefor.

OHIO SUPREME COURT RULES OF PRACTICE

Rule II

DETERMINATION OF JURISDICTION ON APPEALS FROM COURTS OF APPEALS

Section 1. Effect of Failure to Comply with Required Filing of Notice of Appeal in Supreme Court

If a copy of the notice of appeal is not filed or offered for filing in the Supreme Court in compliance with Sections 1, 2, 3, 5, 6 and 7 of Rule I, the Supreme Court may refuse to accept such copy for filing or may dismiss the appeal, either on its own motion or on motion of a party, for lack of prosecution.

Section 2. Notice of Appeal Filed in the Supreme Court Considered as Motion to Certify or for Leave to Appeal

Where the order, judgment or decree of the Court of Appeals that is appealed from was rendered in an action not originating in the Court of Appeals, the copy of the notice of appeal filed in the Supreme Court will be considered as a motion for leave to appeal in a felony case or as a motion to certify in any other case. No separate motion to certify or for leave to appeal need be filed.

Section 3. Consideration as to Existence of Constitutional Question

(A) If an appellant contends that a case involves a substantial constitutional question and also contends that such case is of public or great general interest, it is necessary to file only one notice of appeal. (See Rule I(A) (a) and (c).)

(B) Where an appellant claims that he has an appeal as of right (*i. e.*, that the case involves a constitutional question), the Supreme Court will, *sua sponte*, consider the case as on a motion to dismiss the appeal as one not involving any substantial constitutional question and will consider such motion to dismiss at the same time that it considers any motion to certify or motion for leave to appeal in the case.

Section 4. Memorandum in Support of Claimed Jurisdiction of Supreme Court

(A) A motion to certify, a motion for leave to appeal or a claimed appeal as of right shall be supported by a memorandum which shall contain:

(1) The same matters required in a brief on the merits (Rule V, Section 1) except that any argument should be limited to presenting with accuracy, brevity and clarity only what is essential to a ready and adequate understanding of the proposition of law to which it relates and why that proposition should be adopted.

(2) Only to the extent not indicated by such propositions of law and such argument, a concise statement of why the case is of public or great general interest, why a substantial constitutional question is involved or why leave to appeal should be granted, such statement to follow the argument.

(B) The failure of appellant to present with accuracy, brevity and clarity whatever is essential to a ready and adequate understanding of the questions requiring consideration will be sufficient reason for denying the motion to certify or for leave to appeal or for dismissing an appeal as of right on the ground that no substantial constitutional question is involved.

Unless the "statement of the propositions of law presented" clearly states some proposition of law which could serve as a syllabus, the court may dismiss any motion or appeal *sua sponte*.

(C) The body of the brief should be confined to the minimum number of pages necessary to accurately and clearly present the reasons why the case is of public or great general interest or why leave to appeal should be granted or why a substantial constitutional question exists and should seldom exceed thirty pages.

Section 5. Number of Copies and Service of and Time for Filing Memorandum

Twelve copies of such memorandum, together with proof of service of copies thereof on all other parties or their attorneys of record, must be filed in the Supreme Court at the same time that the notice of appeal is filed therein pursuant to Rule I, Section 1 (B).

Section 6. Memorandum Opposing Jurisdiction of the Supreme Court

Within 30 days after the filing of the notice of appeal in the Supreme Court, appellee shall file a memorandum opposing jurisdiction. Twelve copies of such memorandum, together with proof of service of copies thereof on all other parties or their attorneys of record, must be filed at the same time that such memorandum is filed. Such memorandum shall be prepared in the same form as the appellant's memorandum, and the appellee shall state propositions of law which would support judgment in his favor. Appellee shall include in the appendix of such memorandum a complete copy of any cited statute, constitutional provision, etc., unless it is already set forth in the appellant's memorandum.

Section 7. Formal Requirements

Each memorandum filed pursuant to Sections 4, 5 and 6 of this rule must conform with the requirements of Rule VI.

Section 8. Procedure on Appeal in Felony Case Where Notice of Appeal is Not Filed as Specified

In those cases where the time has expired for the filing in the Court of Appeals or in the Supreme Court of a notice of appeal in a felony case, adequate reasons for the delay in such filing must be given and, where based upon facts, those facts must be evidenced by affidavit or deposition filed in support of such motion for leave to appeal.

Section 9. Record Not to be Sent to Supreme Court Until Appeal Allowed

Except in those cases originating in the Court of Appeals, and in those cases in which the death penalty has been affirmed, unless otherwise ordered and notwithstanding R.C. 2505.08, neither the original papers nor the transcript of proceedings shall be transmitted to the Supreme Court, unless and until a motion to certify the record has been granted or a motion for leave to appeal has been granted or, in the case of an appeal as of right, unless and until the court has overruled the motion to dismiss referred to in Section 3 of this rule.

Section 10. Record to be Sent to Supreme Court After Jurisdiction Determined

Upon the allowance of a motion to certify the record or for leave to appeal or, in the case of a claimed appeal as of right, on the overruling of the motion to dismiss referred to in Section 3 of this rule, the Clerk of this Court shall issue

an order to the Court of Appeals requiring the clerk of that court to prepare a transcript of the docket and journal entries in such cause in that court, upon being paid by the appellant the lawful fees therefor, and to transmit the transcript and all the papers in the case, duly certified, to the Clerk of the Supreme Court within ten days.

Rule V

BRIEFS ON MERITS IN APPEAL CASES

Section 1. Appellant's Brief

The appellant in all civil cases must file eighteen copies of a brief within ten days of the date the copies of the record are filed with the Court. The appellant in all criminal cases must file eighteen copies of a brief within forty days of the date of the allowance of the appeal.

The appellant's brief must comply with Rule VI and contain:

(A) A table of contents listing the table of authorities, statement of facts, argument (with the proposition or propositions of law and authorities relied upon to support the same) and appendix, all as required by the following subparagraphs of this rule, with references to the pages of the brief where each appears, and arranged as shown by the following sample:

[SAMPLE]

TABLE OF CONTENTS

Page No.

TABLE OF AUTHORITIES [if required, see Section 1(B) of this rule.] 1

STATEMENT OF FACTS 2

[May be divided between statement of the case and statement of facts. Appellee should confine his statement to differences between the parties or to additional material.]

ARGUMENT 3

[Sample proposition of law taken from first paragraph of syllabus of Bureau of Support v. Kreitzer (1968), 16 Ohio St.2d 147, 243 N.E.2d 83.]

Proposition of Law No. 1:

The duty of the state of Ohio to support inmates (or patients) of benevolent institutions under the jurisdiction of the Department of Mental Hygiene and Correction, as set forth in R.C. 5121.01, is qualified by R.C. 5121.03 *et seq.*, so that the nature of its liability for support is secondary. Primary liability for such support, at least in the case of a patient without dependents, rests absolutely upon the patient himself, by virtue of R.C. 5121.04(B) (1), or upon his estate. 3

Authorities cited in support of Proposition of Law No. 1: [in the order in which they appear in the brief] State, ex rel. Price v. Huwe (1922), 105 Ohio 304, 137 N.E. 167 3

State v. Kiesewetter (1882), 37 Ohio St. 546 3
R.C. 5121.01 4
R.C. 5121.10 4
R.C. 5121.04(B) (1) 4
R.C. 5121.03 5
Lackmann v. Dept. of Mental Hygiene, 156 Cal.App.2d 674, 320 P.2d 186 5

[If desired, the argument under each Proposition of Law may be subdivided. Appellee shall state the proposition in the form which would, if adopted, support judgment in his favor.] 7

Proposition of Law No. 2:

[State with successive numbers, each, if any, additional propositions relied upon.]

APPENDIX

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[Note: All of the above mentioned documents must be included in the appellant's brief. They shall not be repeated in the printed record or appellee's brief.]

(B) If the total number of separate citations exceeds twelve (12), a table of authorities listing all cases or other authorities, arranged alphabetically, and all statutes, constitutional provisions, and departmental, board or commission regulations relied upon, with references to the pages of the brief where each citation appears.

(C) A statement of the facts with page references, in parentheses, to supporting portions of the printed or nonprinted record and of the original transcript of testimony. (Obviously, in a memorandum under Rule II, Section 4, references to a printed or nonprinted record cannot be made.)

(D) An argument, which shall be headed by the proposition of law which the appellant contends is applicable to the facts in the case and which, if he prevails, could serve as a syllabus. See paragraph three of the syllabus of Drake v. Bucher, Supt. (1966), 5 Ohio St.2d 37, 213 N.E.2d 182. If several propositions of law are contended for, the argument shall be divided by utilizing each proposition as a subheading.

(E) An appendix containing (a) a copy of the notice of appeal to the Supreme Court, (b) a copy of the assignments of error filed in the Court of Appeals, (c) a copy of the judgment or order appealed from, (d) copies of all judgments, orders, and opinions rendered by any court or board in the case, (e) complete copies of any unreported cases cited, (f) the rules or regulations of any department, board, commission or any other agency relied upon (such rules shall be set forth in full, or if too voluminous, a copy thereof shall be furnished with each copy of the brief), and (g) a copy of any statute or constitutional provision relied upon, to be construed or otherwise involved in the case. The pages of the appendix shall be numbered.

(F) If it is necessary to file multiple appeals from a single decision of a Court of Appeals or an administrative agency and such appeals are docketed under separate case numbers, counsel for the appellants should, whenever possible, file a single brief or memorandum for all such appeals. The cover page of such brief or memorandum should contain the names and numbers of each case.

Section 2. Brief Opposing Appeal

Within thirty days of the filing of appellant's brief, the party opposing the appeal shall file a brief in form complying with the provisions of this rule and Rule VI and answering the appellant's contentions and making any other contentions deemed appropriate as reasons for affirmance of the order or judgment appealed from.

Section 3. Reply Briefs

Any reply brief must be filed within twenty days after the filing of appellee's brief and must comply with Rule VI as to form.

Section 4. Additional Authorities

In all cases where the briefs filed in compliance with these rules do not contain all the authorities on which counsel intends to rely, there must be filed a brief statement of additional authorities. This statement should be filed at least five days before oral argument.

Section 5. Briefs Amicus Curiae

Briefs amicus curiae conforming to the requirements of this section may be filed with leave of Court. Any amicus curiae shall file its brief within the time allowed the party whose position as to affirmance or reversal the amicus brief will support.

Section 6. Proof of Service

Service of a copy of each brief or statement of additional authorities shall be made upon opposing counsel forthwith, and proof of service shall be filed with the Clerk.

Section 7. Additional Docket Fee Where Appeal Allowed

Where a motion to certify has been allowed, or motion for leave to appeal has been granted, the appellant must pay an additional docket fee of five dollars on the filing of his brief.

RULES OF THE CLEVELAND CIVIL SERVICE COMMISSION

8.20. Lay-Offs. Whenever it becomes necessary to reduce the working force in a classification in any division of the city service, the appointing authority may lay off any appointee in such classification; provided, however, that where two or more persons are employed in a classification, they shall be laid off in the inverse order of their appointment in such classification, unless otherwise first approved by the commission for good cause shown and, provided, further that no lay-offs shall be affected or influenced by politics, religion, or race; and provided further that no lay off shall be used as a substitute for disciplinary action. In every case of lay-off, the appointing authority is hereby required to notify the commission, and the employee being laid off, immediately in writing, and to state therein the reasons for such lay-off. The procedure for accomplishing lay-offs and subsequent eligibility for re-employment shall be as set forth in Rules 8.21 through 8.23 inclusive.